

COURT FILE NUMBER QBG 40 of 2019

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN  
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE YORKTON

IN THE MATTER OF THE RECEIVERSHIP OF  
EMW INDUSTRIAL LTD., EMW INDUSTRIAL INC., E&S MORRISON FAMILY  
HOLDINGS LTD., PEPPER MAINTENANCE CANADA (2005) INC., EMW  
HOLDINGS LTD., and EMW REAL ESTATE CO. LTD.

**NOTICE OF APPLICATION**

**NOTICE TO RESPONDENTS: All parties listed on the Service List**

This application is made against you. You are a respondent. You have the right to state your side of this matter before the Court. To do so, you must be in Court when the application is heard as shown below:

**Where:** Court of Queen's Bench for Saskatchewan  
Judicial Centre of Yorkton  
29 Darlington St E  
Yorkton SK S3N 0C2  
(by conference call)

**Date:** April 13, 2021

**Time:** 9:00 a.m.

**NOTE:** This hearing will occur by telephone. Dial-in particulars are available from the Receiver's legal counsel by written or email request.

Due to the health risks posed by the COVIC-19 pandemic, all chambers applications will be heard by telephone unless the presiding judge has decided otherwise. To confirm the telephone number where you can be reached on the date of the application, you must immediately contact the office of the local registrar at (306) 786-1515 and provide your telephone number. You must remain available by telephone at the number on that date until your matter is heard.

Go to the end of this document to see what you can do and when you must do it.

**Remedy claimed or sought:**

1. The applicant, Deloitte Restructuring Inc. (the “**Receiver**”), in its capacity as the court-appointed receiver of all of the personal property of the debtors, EMW Industrial Ltd., EMW Industrial Inc., E&S Morrison Family Holdings Ltd., Pepper Maintenance Canada (2005) Inc., EMW Holdings Ltd., and EMW Real Estate Co. Ltd. (collectively, the “**Debtors**”), seeks an Order pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3:

- (a) declaring the service of this Notice of Application and all other materials filed in support of the same on the parties listed in the Service List established in these proceedings to be timely and sufficient;
- (b) approving the Receiver’s activities, fees, receipts, disbursements, and proposed courses of action, including the Receiver and its legal counsel’s fees and disbursements outlined in the Fourth Report of the Receiver (the “**Fourth Report**”), in relation to the discharge of its mandate as receiver of the Property (as that term is defined in the Order issued April 11, 2019 (the “**Receivership Order**”) by the Honourable Mr. Justice D. H. Layh);
- (c) approving and confirming all activities, actions and proposed courses of action of the Receiver (collectively, the “**Actions of the Receiver**”) to date in relation to the discharge of its duties and mandate as receiver of the Property pursuant to the Orders of this Honourable Court in these proceedings (collectively, the “**Receiver's Mandate**”), as such Actions of the Receiver are more particularly described in the Fourth Report and all of the Receiver's other reports filed in these proceedings, as well as the statement of receipts and disbursements contained in the Fourth Report;
- (d) discharging the Receiver as receiver of the Property, provided that notwithstanding its discharge herein:
  - (i) the Receiver shall remain Receiver for the performance of such routine administrative tasks as may be required to complete the administration of the receivership herein; and
  - (ii) the Receiver shall continue to have the benefit of the provisions of all Orders made in these proceedings, including all approvals, protections and stays of proceedings in favour of Deloitte Restructuring Inc. in its capacity as Receiver;
- (e) adjudging and declaring that based upon the evidence that is currently before this Honourable Court in regard to the Actions of the Receiver:

- (i) the Receiver has acted honestly and in good faith, and has dealt with the Property and carried out the Receiver's Mandate in a commercially reasonable manner;
  - (ii) the Receiver has satisfied all of its duties and obligations pursuant to the Receiver's Mandate;
  - (iii) the Receiver shall not be liable for any act or omission arising from, relating to or in connection with its discharge of the Receiver's Mandate, save and except for any liability arising out of fraud, gross negligence or willful misconduct on the part of the Receiver;
  - (iv) the Receiver has never had and shall not in the future have any liability in regard to any act or omission of the Debtor, including, without limitation, in relation to the business of the Debtor, payment of and/or accounting for any taxes (including, without limitation, goods and services tax) on revenues earned or any indebtedness or obligations whatsoever or howsoever incurred by the Debtor;
- (f) authorizing Ewen Morrison to execute and deliver purchase and sale documentation and transfer documentation in respect of the pending sale of the Saltcoats Property, and to do such other things as may be required to complete the sale of the Saltcoats Property as described in the Fourth Report;
- (g) ordering that subject to the foregoing, any claims against the Receiver in connection with the Receiver's Mandate are hereby stayed, extinguished and forever barred;
- (h) granting leave to the Receiver to apply to this Court for such further advice, direction or assistance as may be necessary to give effect to the terms of this Order; and
- (i) such further and other relief as counsel may request and this Honourable Court may allow.

**Grounds for making this application:**

2. As described both below and in the Fourth Report, the Receiver has continued to carry out the Receiver's Mandate honestly, in good faith, and in compliance with the Receivership Order and the duties imposed upon the Receiver by the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, *The Queen's Bench Act, 1998*, SS 1998, c. Q-1.02, *The Personal Property Security Act, 1993*, SS 1993, c P-6.2, and the common law.

3. The Receiver's Mandate has been completed, other than in respect of administrative tasks and the activities that the Receiver is requesting be approved by this Honourable Court, as described in the Fourth Report.

4. The Receiver is of the view that the Receiver's discharge is prudent and reasonable.

5. On the evidence before this Honourable Court, the Receiver has carried out the Receiver's Mandate honestly, in good faith, and in compliance with the Receivership Order, and the duties imposed on the Receiver by the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, and the common law.

6. The facilitation of the pending sale of the Saltcoats Property is appropriate, and to the benefit of a senior secured creditor of EMW Real Estate Co. Ltd.

7. Such further and other grounds put forward as counsel may advise and this Honourable Court allow.

**Material or evidence to be relied on:**

8. The Receiver relies upon the following:

- (a) this Notice of Application;
- (b) the Service List;
- (c) the Fourth Report;
- (d) a proposed form of draft Order;
- (e) Affidavit of Service;
- (f) the pleadings and proceedings herein; and
- (g) such further and other material as this Honourable Court may allow.

**Applicable Rules:**

9. N/A

**Applicable Acts and Regulations:**

10. The *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.

11. *The Queen's Bench Act, 1998*, SS 1998, c Q-1.02.

12. *The Personal Property Security Act, 1993*, SS 1993, c P-6.2.

13. Such further Acts and regulations as counsel for the Receiver may advise and this Honourable Court may permit.

**Any Irregularity Complained of or Objection Relied Upon**

14. There are no irregularities complained of or objections relied upon.

**NOTICE**

If you wish to oppose the application, you or your lawyer must prepare an affidavit in response, serve a copy at the address for service given at the end of this document, and file it in the court office, with proof of service, at least 7 days before the date set for hearing the application. You or your lawyer must also come to court for the hearing of the application on the date set.

AND FURTHER TAKE NOTICE that if you do not appear at the hearing an order may be made in your absence and enforced against you. YOU WILL NOT RECEIVE FURTHER NOTICE OF THIS APPLICATION.

Dated at Regina, Saskatchewan this 7th of April, 2021.

**McDOUGALL GAULEY LLP**

Per:   
Michael W. Milani, Q.C.  
Counsel to Deloitte Restructuring  
Inc., in its capacity as court-  
appointed receiver

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

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Lawyer in charge of file:	Michael W. Milani, Q.C.
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